

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JAMES McCURDY,

Plaintiff,

v.

PRICE, et al.,

Defendants.

1:21-cv-01699-ADA-GSA-PC

**ORDER DENYING REQUEST FOR
IMMEDIATE SERVICE OF PROCESS**

(ECF No. 14.)

James McCurdy (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on November 22, 2021, at the Sacramento Division of the United States District Court for the Eastern District of California. (ECF No. 1.) On November 30, 2021, the case was transferred to the Fresno Division of the Eastern District. (ECF No. 5.)

On September 21, 2022, Plaintiff filed a motion for the court to initiate service of process in this action. (ECF No. 14.)

The court is required by law to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity, such as the instant action brought pursuant to 42 U.S.C. § 1983. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

With respect to service, the court will, *sua sponte*, direct the United States Marshal to serve the complaint only after the court has screened the complaint and determined that it contains cognizable claims for relief against the named defendants. Plaintiff's case awaits the Court's requisite screening process. Therefore, it is not time for service in this action.

Based on the foregoing, **IT IS HEREBY ORDERED** that Plaintiff's request for immediate service of process, filed on September 21, 2022, is DENIED.

IT IS SO ORDERED.

Dated: July 27, 2023

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE